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October 10, 2006

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Chief, Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Attn: Eric J. Bash, Assistant Chief, Investigations
& Hearings Division
Kenneth M. Scheibel, Jr., Attorney

Re: *Response of CBS Corporation to Letter of Inquiry,*
File No. EB-06-IH-2705

Dear Mr. Davenport:

CBS Corporation ("CBS"), by its attorneys, hereby files this response to the above-captioned Letter of Inquiry ("LOI") dated August 11, 2006, which seeks information regarding allegations by the Center for Media and Democracy ("CMD") that six CBS owned and operated television stations (the "Stations") aired certain video news releases ("VNRs") or satellite media tours ("SMTs") without proper sponsorship identification.¹ The CBS Stations targeted by CMD are: KCBS-TV, Los Angeles, CA; KMAX-TV, Sacramento, CA; KPIX-TV, San Francisco, CA; KYW-TV, Philadelphia, PA; WBFS-TV, Miami, FL; and WCBS-TV, New York, NY.

This response consists of this Cover Letter, a response to the LOI questions for each of the Stations (in alphabetical order), a Production Log identifying each of the documents submitted in response to the LOI, copies of the documents identified in the Production Log, a Privilege Log identifying documents being withheld as privileged, and two recordings in VHS

¹ See Diane Farsetta and Daniel Price, "Fake TV News Widespread and Undisclosed," Center for Media and Democracy (April 6, 2006) (the "CMD Study") (available at <http://www.prwatch.org/pdfs/NFNPdFExt6.pdf>).

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videotape format of each of the programs containing the material from the particular VNR or SMT in question.²

In no instance did a CBS Station violate the sponsorship identification requirements of the Communications Act of 1934, as amended (the "Act"), or the Commission's rules. Enforcement action against CBS is not warranted.

I. INTRODUCTION AND SUMMARY

The six broadcasts at issue involved issues and material that each Station determined, in the exercise of its editorial discretion, merited inclusion in its newscast. Stations KYW-TV and WCBS-TV each broadcast a news story discussing the New England Journal of Medicine's study evaluating the effectiveness of glucosamine and chondroitin supplements in treating osteoarthritis. The Stations decided to run news stories on this study because the effectiveness of glucosamine and chondroitin supplements is likely a matter of consequence to their viewers who use or may consider using these supplements.³

The news story broadcast by Station KPIX-TV involved a local, San Francisco-area company's success in securing approval from the Food and Drug Administration to market a new type of insulin-delivery system and included station-originated reporting from the company's headquarters. The station judged that this story was of significant local business interest and, in fact, had been following the story over time.

Station KMAX-TV decided to air a story about new medical advances, including a technique being tested at the University of Michigan that uses a patient's saliva to test for cardiovascular disease, the possibility for banking stem cells from baby teeth in order to regenerate lost teeth, and modifying teeth bleaching procedures to help remineralize weak teeth. The story included a live segment with the Station's reporters interviewing dental experts regarding these topics.

Station KCBS-TV decided to broadcast a story about a new web search tool that could help protect children against pornography and other inappropriate material on the web. With the alarming news about children's exposure to such material, the Station, like other media,⁴ believed this to be an important story for parents and educators.

² Unless otherwise indicated, subsequent references to VNRs in this letter also include SMTs.

³ With regard to Station KYW-TV, according to CMD the station "took a promotional news release . . . and turned it into a 'thumbs-down' news report." CMD Study at 85.

⁴ See, e.g., *Safeguard Your Kids' Web Surfing*, USA Weekend, Oct. 6-8, 2006, at 4 (available at <http://www.usaweekend.com/thinksmart/index.html>).

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Station WBFS-TV decided to run a news story about a workplace survey conducted by a management consultant on employees' engagement in and satisfaction with their jobs. The story about the survey, which the Station picked up from the CNN news service, was news that was carried in many media outlets.⁵

CBS takes seriously its journalistic obligation to identify for its viewers the source of video material provided by others that may be used in CBS newscasts. To that end, the journalistic policy of the CBS Television Stations Group, in effect prior to the time of the broadcasts at issue here, requires that if and when a station broadcasts material from a VNR, the station must clearly disclose on-air the origin of the information and identify all material provided by outside sources. Moreover, the CBS Law Department regularly reminds individual stations of the importance of this journalistic policy and the sponsorship identification requirements of the Act.

CBS's internal investigation confirmed that six Stations broadcast news stories that included portions of videos from outside sources without disclosing on-air the source of the material. As such, the various broadcasts violated CBS Television Station Group's journalistic policy requiring the disclosure on air of the source of all VNR material its stations broadcast. However, none of the broadcasts violated Section 317 of the Act or Section 73.1212 of the Commission's rules.⁶ Neither the Stations nor their employees received or were promised valuable consideration to air the material in question. Furthermore, the Stations were not aware, and had no reason to believe, that any person involved in the production of the VNRs in question paid or received consideration to include the VNR material in the news stories the stations aired.⁷ Although the Stations were aware of circumstances suggesting that a company was paid to *produce* the VNR on behalf of another company, as discussed below, consideration for the production of a VNR alone, as opposed to consideration for inclusion of the material in the news story, does not require sponsorship identification. Thus, and as discussed below, the Stations' broadcast of material from a VNR did not violate Sections 317 of the Act or 73.1212 of the Commission's rules. Any conclusion to the contrary by the Commission would raise serious questions of improper Government interference with CBS's First Amendment rights to exercise editorial judgment and discretion with respect to its news broadcasts.

⁵ See, e.g., Jane J. Kim, *Poll Gives Workers Morale Boost*, Wall Street Journal, Jan. 29, 2003, at D2.

⁶ 47 U.S.C. § 317; 47 C.F.R. § 73.1212.

⁷ Nor does the "formal complaint" filed by CMD and FreePress on April 6, 2006 include any allegation or evidence of such consideration. See Letter to Chairman Kevin J. Martin, Federal Communications Commission, *et al.* from Timothy Karr, Campaign Director, FreePress, and John Stauber, Executive Director, Center for Media and Democracy (April 6, 2006) ("FreePress/CMD Complaint").

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II. THE STATIONS' BROADCAST OF CERTAIN VNR MATERIAL DID NOT VIOLATE THE ACT OR THE COMMISSION'S RULES.

A. Sponsorship Identification Is Not Required in All Instances Where VNR Material Is Broadcast

At their core, Sections 317 of the Act and 73.1212 of the Commission's rules require that, when payment has been received by or promised to a broadcast licensee for the airing of program material, the station must, at the time of the airing, disclose that fact and identify who paid or promised to provide the consideration. Section 317(a)(1) of the Act provides, in pertinent part:

All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person. . . .⁸

In turn, Section 73.1212(a) of the Commission's rules provide:

When a broadcast station transmits any matter for which money, service, or other valuable consideration is either directly or indirectly paid or promised to, or charged or accepted by such station, the station, at the time of the broadcast, shall announce:

- (1) That such matter is sponsored, paid for, or furnished, either in whole or in part, and
- (2) By whom or on whose behalf such consideration was supplied . . .⁹

In addition, Section 507 of the Act requires both producers and suppliers of programs to report to the broadcast licensee the receipt of any consideration for including particular material in a program to be broadcast.¹⁰ A broadcaster must provide sponsorship identification when it receives any such report, or has knowledge of any such consideration through the exercise of

⁸ 47 U.S.C. § 317(a)(1).

⁹ 47 C.F.R. § 73.1212(a).

¹⁰ 47 U.S.C. § 508.

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“reasonable diligence” with respect to its employees or others “with whom it deals directly in connection with any program or program material for broadcast”¹¹

The statute and rules do not mandate sponsorship identification whenever a television station broadcasts VNR or other material furnished by others. In 1960, Congress amended Section 317 to codify the “general rule that an announcement shall not be required . . . with respect to any service or property furnished ‘without charge or at a nominal charge’ to a broadcast licensee for use on or in connection with a broadcast.”¹² This “general rule” is subject only to the “exception that an announcement will be required if the service or property is furnished ‘in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.’”¹³ Congress also added additional language to Section 317 to preserve the Commission’s rule requiring sponsorship identification for the broadcast of material that is “political” or involves a “controversial issue of public importance,” where such material is furnished to the station in connection with its transmission.¹⁴

Congress amended Section 317 in part to exempt from the announcement obligations certain specific situations that the Commission had previously found to require sponsorship identification.¹⁵ Among the circumstances Congress intended to exempt from the announcement requirements were cases where the station received no payment other than the “program material alone (for example, a ‘travel’ film produced by a chamber of commerce).”¹⁶

To emphasize its intent to reverse this Commission finding, Congress offered the example of a scenic travel film produced by a bus company and provided free to broadcast stations. Congress emphasized that sponsorship identification is not required unless “the

¹¹ See 47 U.S.C. §§ 317(b), (c), 508(c); 47 C.F.R. § 73.1212(b), (c). The “reasonable diligence” requirement does “not establish an independent basis for culpability.” *Metroplex Communications, Inc.*, 5 FCC Red 5610 (1990), *review denied sub nom. Southeast Florida Broadcasting Limited Partnership v. FCC*, 947 F.2d 505 (D.C. Cir. 1991). In other words, there is “no basis to fault a licensee for lacking reasonable diligence in a situation in which there has been no failure to make a required announcement.” *Id.*

¹² H.R. Rep. No. 86-1800 (1960) reprinted in 1960 U.S.C.C.A.N. 3516, 3527-28. See also 47 U.S.C. § 317(a)(1). Section 507(f) of the Act utilizes the same language as the Section 317 proviso in defining “service or other valuable consideration” for the purposes of determining whether payments must be reported under Section 507. 47 U.S.C. § 508(f).

¹³ 1960 U.S.C.C.A.N. at 3528 (citation omitted).

¹⁴ 47 C.F.R. § 73.1212(d). Congress expressly permitted such a rule notwithstanding the general rule that sponsorship identification is not required for material received for free or for a nominal amount. 47 U.S.C. § 317(a)(2).

¹⁵ See 1960 U.S.C.C.A.N. at 3528.

¹⁶ *Sponsorship Identification of Broadcast Material*, 40 FCC 69, 73 (1960).

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broadcaster has impliedly agreed to broadcast identification beyond that reasonably related to the subject matter of the film.”¹⁷ Otherwise, sponsorship identification is not required “because there is no payment other than the matter furnished for broadcast and there is no mention of the bus company” or the only mention of the company is an image of its bus “shown fleetingly in highway views in a manner reasonably related to that travel program.”¹⁸

Congress also stressed that no sponsorship identification would be required where a record distributor furnished a station or disc jockey with free records, except where there was some additional consideration, express or implied, provided or offered for broadcasting the record.¹⁹ Similarly, Congress found that sponsorship identification is not required where news releases are “furnished to a station by Government, business, labor and civic organizations, and private persons, with respect to their activities, and editorial comment therefrom is used on a program.”²⁰

The Commission subsequently confirmed that no announcement is required in these circumstances,²¹ and there is no reason now for the Commission to treat the Stations’ decisions to broadcast free *video* material any differently from a radio station’s decision to air a record or CD it received for free and without receipt of consideration in exchange for so doing. Nor is there a reason for the Commission to treat *video* news releases differently from other news releases; VNRs are simply video material furnished to a station by business and other organizations “with respect to their activities.”²² Indeed, the *VNR Public Notice* itself confirms the general rule that sponsorship identification is not required with respect to video furnished to a television station for free:

In situations in which a broadcast licensee has not directly received or been promised consideration, has not received any Section 507 report that material has been paid for from its employees or others that must make such reports pursuant to that section of the Act, and, acting with the requisite diligence, has no information concerning the making of such promise or payment, Section

¹⁷ 1960 U.S.C.C.A.N. at 3532.

¹⁸ *Id.* at 3531-32.

¹⁹ *Id.* at 3528-29.

²⁰ *Id.* at 3529; *Applicability of Sponsorship Identification Rules*, 40 FCC 141, 146 (1963) (“*Sponsorship Identification Rules*”).

²¹ See *Sponsorship Identification Rules*, 40 FCC at 144-46; *Amendment of Sections 3.119, 3.289, 3.654, and 3.789 of the Commission’s Rules*, 40 FCC 105, 111-12 (1961). See also *Amendment of the Commission’s “Sponsorship Identification” Rules (Sections 73.119, 73.289, 73.654, 73.789, and 76.221)*, 52 FCC 2d 701 (1975).

²² 1960 U.S.C.C.A.N. at 3529.

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317(a)(1) of the Act provides generally that no sponsorship identification is necessary with regard to material that is furnished to the licensee "without charge or at a nominal charge."²³

More generally, the Commission has made clear that sponsorship identification is required only where specifically directed in the statute and the rules: "These rules reflect Congress' view that not all material broadcast requires or necessitates sponsorship identification."²⁴

In short, sponsorship identification for the use of VNR material received free is not required unless (a) there was consideration for airing the material, or (b) the material was political or involved controversial issues of public importance. It is undisputed that the Stations did not air the material in exchange for consideration and the news stories were not political and did not involve controversial issues of public importance.²⁵

B. Sponsorship Identification Was Not Required for the Broadcast of the VNR Material.

As the attached responses to the LOI questions make clear, there are certain general facts in common that demonstrate that the Stations' broadcasts of the VNR material as part of their newscasts did not require sponsorship identification under Sections 317 of the Act and 73.1212 of the Commission's rules.

1. Neither the Stations nor Their Employees Received or Were Promised Consideration for Broadcasting the VNR Material and the Stations had no Reason to Believe Such Consideration had Been Paid in the Chain of Production.

The attached responses make clear that neither the Stations nor their employees received or were promised consideration for including the VNR material in the news stories they decided, as a matter of their editorial discretion, to broadcast. Further, the Stations received no Section 507 report indicating that any person involved in the production of the VNRs in question had paid or received consideration to include the VNR material in the news segments the stations aired. In short, other than the VNRs furnished for broadcast, there was no direct or indirect

²³ *Public Notice*, "Commission Reminds Broadcast Licensees, Cable Operators and Others of Requirements Applicable to Video News Releases and Seeks Comment on the Use of Video News Releases by Broadcast Licensees and Cable Operators," 20 FCC Rcd 8593, 8595 (2005) (emphasis added) (*"VNR Public Notice"*).

²⁴ *Barry G. Silverman*, 63 FCC 2d 507, 512 (1977). In this regard, the Commission's statement that sponsorship identification is "generally" required for VNRs, *VNR Public Notice*, 20 FCC Rcd at 8594, appears to be an overstatement of the law, particularly in light of the language from the *VNR Public Notice* set out in the text above.

²⁵ See note 28 *infra*.

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consideration paid or promised “for the airing of program material. . . .”²⁶ CBS recognizes that the Stations had information indicating that the VNRs had been funded by, produced by, or produced on behalf of certain commercial entities. At most, such information means that the named entities had paid for producing the VNRs, but still would not, under the statute and rules, obligate the stations to broadcast sponsorship identification.

Congress’s examples of the scenic travel film produced by a bus company and the news release are particularly instructive on this point.²⁷ It is reasonable to postulate that in such circumstances there would or may well be consideration paid to produce both the travel film and the news release that were furnished to the broadcast stations. A bus company, after all, is not in the business of producing film and would likely hire a company or contractor to produce the film. Similarly, news releases are commonly prepared and distributed on behalf of a company by an outside public relations firm. Despite the probability of such consideration, Congress made clear that furnishing a film or news release free for broadcast is not sufficient in and of itself to warrant sponsorship identification. Where, as here, a news story does not identify the company on whose behalf the VNR or other material is furnished, except to a degree or in a way that is not reasonably related to its use in the broadcast, there must be some additional consideration beyond such production/distribution-related consideration, *i.e.*, an affirmative and clear *quid pro quo* for including the material in the broadcast at issue.

The distinction between production-related consideration and consideration to include the material in the news story aired is logical within the structure of Section 317 and the Commission’s rules. The proviso Congress added to Section 317 in 1960 is so broad that it would have effectively overturned the Commission’s existing sponsorship identification requirement for material addressing controversial issues of public importance, absent the special exemption enacted in Section 317(a)(2). It follows, then, that Congress intended that sponsorship identification *not* be required for materials provided to broadcasters for free unless the material addresses political issues or controversial issues of public importance. Consequently, there is no sustainable argument that sponsorship identification is required when a company produces in-house a VNR that addresses an issue that is not a controversial issue of public importance and then itself makes the VNR available to broadcast stations for free. In this example, the company making the VNR in-house is not responsible for the selection and inclusion of the VNR in a broadcast – the decision of what to include in the broadcast is made by the television station itself.

With this as background, there is no public policy argument for requiring sponsorship identification simply because a company decides to use another company to produce and distribute its VNR. Returning to the examples mentioned above, having permitted a station to air a Greyhound-produced travel video without sponsorship identification, there is no public policy

²⁶ *VNR Public Notice*, 20 FCC Rcd at 8594 (emphasis added).

²⁷ See *supra* at 5-6.

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reason for Congress to have required sponsorship identification simply because Greyhound hired another company to produce and distribute its travel video. Rather, the sponsorship identification requirements in this context are better understood as applying only if there were inducement or consideration given for inclusion of material in the broadcast at issue, above and beyond the consideration paid for production and distribution of the material itself.²⁸

This analysis is supported by the legislative history to the 1960 amendments. Congress stated that it enacted the amendments to extend sponsorship identification requirements to apply in certain circumstances to “those in fact responsible for the selection and inclusion of broadcast matter.”²⁹ Neither the VNR production companies nor the companies who paid to have their VNRs produced fall within this category.

Accordingly, the mere fact that the Stations may have been aware that a production company may have been paid by its client to *produce* the VNRs is insufficient to require the Stations to have broadcast sponsorship identification with the VNR material they used. Even if the Commission disagrees and now determines that sponsorship identification was required in this context, there is nevertheless no basis for the Commission to proceed with enforcement action against CBS. An interpretation of the sponsorship identification requirements in a manner that requires identification of persons paying to have video material produced on their behalf

²⁸ In *dicta* in a parenthetical in a footnote to a public notice involving public service announcements that broadcasters and cablecasters were paid to air (not newscasts involving broadcasters’ editorial judgment to include material provided to them free of charge, which involves heightened public policy and First Amendment issues), the Commission said that sponsorship identification is required when “consideration is paid by a commercial entity to its public relations firm for production of an announcement . . .” *Public Notice*, “Commission Reminds Broadcast Licensees and Cable Operators of Sponsorship Identification Requirements Applicable to Paid-for ‘Public Service’ Messages,” 6 FCC Rcd 5861, 5861 n.1 (1991). The Commission did not explain this statement any further. For the reasons stated above, it is an incorrect statement of the law. It makes no logical or public policy sense, for example, for sponsorship identification to be required if the American Heart Association pays a company to produce a public service announcement on an issue that is not a controversial issue of public importance even though such sponsorship identification is indisputably not required if the American Heart Association produces the announcement itself.

The Commission’s early decisions involving kinescope broadcasts of the Congressional “Kohler hearings” are inapposite. *See, e.g., KTSP, Inc.*, 40 FCC 12, 13 (1958). These decisions all involved controversial issues of public importance, which the VNRs at issue here indisputably do not involve. Neither the CMD Study nor the FreePress/CMD Complaint makes any allegations to this effect. The CMD Study itself makes clear that the VNRs did not involve political campaign issues, issues subject to ongoing legislative hearings, or bond issues, which the Commission has historically found to be controversial issues of public importance. *See, e.g., id.; Storer Broadcasting Co.*, 40 FCC 24 (1958); *Sponsorship Identification Rules*, 40 FCC at 150-151. Further, these kinescope cases were decided two years before Congress amended Section 317 to include the proviso language discussed above.

²⁹ 1960 U.S.C.C.A.N. at 3527.

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cannot be said to have been sufficiently clear at the time of the broadcasts to have allowed CBS or the Stations to "identify, with ascertainable certainty, the standards with which the [Commission] expects [them] to conform," a constitutional due process predicate to enforcement action.³⁰

2. The Stations Received the VNRs Free and the VNR Material that was Broadcast Did Not Include Identification Beyond that Reasonably Related to the Subject Matter of the News Stories.

Furthermore, the Stations' broadcast of VNR material fell squarely within the express terms of the proviso to Section 317 of the Act. First, the responses demonstrate that the Stations all received the VNR material free. Stations KCBS-TV, KMAX-TV, KYW-TV, and WCBS-TV each received the VNRs in question free from a VNR production company. Station KPIX-TV obtained the VNR material free, upon request, directly from two commercial entities, Nektar and Pfizer, instead of through an intervening VNR production company. Finally, Station WBFS-TV received the VNR material through its subscription to the CNN News Source ("CNN") Pathfire service.³¹

Second, each station exercised its own editorial discretion in deciding whether to utilize the VNR material in the news story, how much of that material to use, and how to use it. Evidence of this is found in the fact that the broadcasts in question did not identify the entities for which the VNR material was produced except where such information was relevant to the station's news story, just as a reporter attributes information to its sources. For example, in Station WBFS-TV's news story about worker engagement in and happiness with their jobs, the only mention of the company at issue was limited to disclosure of the management consultant company that authored the study that was the focus of the story. Editing out that reference would have been inconsistent with the sound journalistic practice of identifying who authored a study discussed in a news story.³²

³⁰ *Trinity Broadcasting of Florida v. FCC*, 211 F.3d 618, 628 (D.C. Cir. 2000) (citations omitted).

³¹ The contract involves both a license fee and barter arrangement for the service as a whole, not for each instance the station uses the material. Even if this arrangement may involve consideration to CNN that is greater than a nominal charge, the fact that the station provided CNN consideration for the material makes it a weaker, not a stronger, case for sponsorship identification. See *National Association for Better Broadcasting*, 4 FCC Rcd 4988 (1989).

³² Similarly, Station KMAX-TV mentioned the American Dental Association ("ADA") in the anchor lead-in to a live interview in order to inform its viewers that the ADA was "addressing" the new saliva test that was a subject of the news story, and during the interview to identify the fact that one of the interviewees represented the ADA. Stations KYW-TV and WCBS-TV did not mention the name of the supplement manufacturers at issue because they determined that those names were not relevant to their stories. Station KPIX-TV mentioned the name Nektar because that company is a local business and this created the local interest for the story. Station KCBS-TV mentioned the name Net Trekker.Com simply

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In short, the VNR materials were furnished free and, as broadcast, did not contain identification beyond that reasonably related to the subject matter of the news stories.³³ As such, the Stations' broadcast of the VNR materials fell within the Section 317 proviso and are directly analogous to the free records, news releases, or scenic travel films, which Congress and the Commission have already concluded do not require sponsorship identification.³⁴

III. CONCLUSION

In sum, each of the Stations exercised its editorial discretion to use some VNR material in the context of a station-produced news story. Neither the Stations nor their employees received or were promised valuable consideration to air the VNR material in question here. Furthermore, the Stations were not aware, and had no reason to believe, that any person involved in the production of the VNRs in question paid or received consideration to include the VNR material in the news segments the stations aired. Although the Stations had information that might suggest that a company was paid to *produce* the VNR on behalf of another company, consideration for the production of a VNR alone does not require sponsorship identification. Moreover, none of the material involved political issues or controversial issues of public importance. Thus, the Stations did not violate Sections 317 of the Act or 73.1212 of the Commission's rules. Any interpretation to the contrary would raise serious First Amendment concerns regarding interference with CBS's editorial discretion in connection with its newscasts.

because its product was the subject of the story on the filtering of pornographic and other inappropriate material online.

³³ The one SMT at issue here is similarly covered by the Section 317 proviso. The proviso states in part: "service or other valuable consideration' *shall not include any service or property* furnished without charge or at a nominal charge for use on, or in connection with, a broadcast. . . ." 47 U.S.C. § 317(a)(1) (emphasis added). The provision of production facilities and a satellite uplink for a live news interview (along with making interviewees available at the production facilities) would plainly fall within the "services" covered by this proviso (such services do not involve program material).

³⁴ See *supra* at 5-6.

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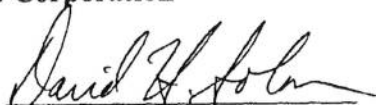
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For the reasons set forth above, CBS respectfully requests that the Enforcement Bureau terminate the instant inquiry. Please contact the undersigned with any questions.

Respectfully submitted,

CBS Corporation

By:



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**STATION KCBS-TV, LOS ANGELES, CA
RESPONSE TO LOI QUESTIONS
FILE NO. EB-06-IH-2705**

1. For each VNR or SMT programming segment identified above, state whether CBS aired the VNR or SMT program material as alleged in the CMD Study.

On January 27, 2006, during the 5 pm newscast, Station KCBS-TV broadcast an approximately 15-second "tease" followed by a 45-second news story on an educational search engine that prevents students from seeing inappropriate websites. The "tease" included approximately 10 seconds of a two-minute video provided by Medialink, on behalf of Net Trekker.Com. The news story included 38 seconds of that two-minute video; the 38 seconds of video that was broadcast included 12 seconds of audio from the material provided by Medialink. The station prepared its own script for its own anchor to use in the "tease" and the news story.

If so, provide the following information:

a. the date(s) on which CBS received the VNR or SMT program material;

Station KCBS-TV received the Net Trekker material from Medialink through a satellite feed at approximately 10 am (Eastern) on January 27, 2006.

b. any materials CBS received that accompanied the VNR or SMT;

On January 26, 2006, Station KCBS-TV received an email from Medialink announcing the availability of the material. The January 26 email briefly summarized a proposed story that many schools were now blocking search engines such as Google in favor of targeted educational search engines like Net Trekker. The email announced the details of the satellite feed of the VNR and listed the audio and video contained in the satellite feed. The email included the statements "Produced for Net Trekker.com" and **"FOR STORY INFORMATION, CONTACT: ~ Rob Bratskeir, Net Trekker. . . ."**

c. the person(s) from whom CBS received the VNR or SMT program material;

Station KCBS-TV obtained the material for free from Medialink. Neither CBS nor any of its employees or representatives received or were promised any consideration, from any source, in exchange for airing the VNR or SMT material.

d. the date(s) and time(s) that CBS aired any portion of the VNR or SMT program material;

Station KCBS-TV aired portions of the material as part of a "tease" broadcast at approximately 5:36 pm (Pacific) and part of a news story broadcast at approximately 5:39 pm (Pacific) on January 27, 2006.

e. two recordings in VHS videotape format of the program(s) containing the VNR or SMT program material;

Enclosed.

f. a written transcript of the segment(s) containing the VNR or SMT program material;

Enclosed.

g. the steps, if any, CBS took to determine whether the VNR or SMT program material required sponsorship identification, and the information CBS learned through taking any such steps;

h. whether CBS was aware of or had reason to believe that any person involved in the production of the VNR/SMT segment paid or received consideration for the inclusion of material in the segment; and

i. whether CBS identified the VNR or SMT material as sponsored, and if so, the manner in which that identification took place.

Station KCBS-TV personnel reviewed the January 26 email from Medialink, which included the statements "Produced for Net Trekker.com" and "**FOR STORY INFORMATION, CONTACT: ~ Rob Bratskeir, Net Trekker. . .**"

Station KCBS-TV was not aware, and had no reason to believe, that anyone had paid or received consideration for inclusion of the material in the news story broadcast on January 27, 2006. See Cover Letter.

Notwithstanding CBS Television Stations Group's policy to identify the source of such material, through human error, Station KCBS-TV did not identify on air Net Trekker as the source of the material in the "tease" and the news story. The newscast producer did not indicate that the source of the material should be identified and the writer who wrote the story did not identify the source of the video used in the broadcast.

2. For each VNR or SMT programming segment identified above, state whether CBS, or any of its employees or representatives, received or were promised any consideration, from any source, in exchange for airing the VNR or SMT program material.

Neither CBS nor any of its employees or representatives received or were promised any consideration, from any source, in exchange for airing the VNR or SMT material.

3. State the policies and procedures of CBS relating to:

a. compliance with 47 U.S.C. § 317 of the Communications Act of 1934, as amended, and the Commission's sponsorship identification rules; and

Station KCBS-TV's policies and procedures for compliance with Section 317 of the Act are established by CBS Television Stations Group. CBS Television Stations Group has a policy (which was in effect prior to the broadcast at issue here) requiring all television stations licensed to CBS or its subsidiaries to comply with Section 317 of the Communications Act and Section 73.1212 of the Commission's rules. The CBS Law Department has regularly provided the station with information regarding the station's obligation to comply with the sponsorship identification requirements contained in the Communications Act and the Commission's rules.

b. the handling and use of VNR and SMT program material.

Station KCBS-TV's policies and procedures for dealing with VNR and SMT program material are established by CBS Television Stations Group. CBS Television Stations Group has a policy (which was in effect prior to the broadcast at issue here) that if and when a station uses material from a VNR, the station must clearly disclose on air the origin of the information and identify all material provided by outside sources. The CBS Law Department has regularly provided the station with information regarding the station's obligations to comply with this policy. Subsequent to the broadcast at issue here, Station KCBS-TV instituted an additional procedure barring any downlinking and/or recording of satellite news release video feeds without the prior express approval of a News Manager.

4. To the extent not otherwise specifically requested, provide copies of all Documents that otherwise provide the basis for, support or otherwise relate to the responses to Inquiries 1 through 4 above.

Enclosed.